

## REMARKS

Claims 1 – 19 continue to be in the case.

New claim 20 is being introduced.

The language of claim 20 is based on claim 7.

Some of the previous claims are being amended mostly based on Figure 3.

### *The Office Action refers to Claim*

#### *Rejections - 35 USC § 103*

2. Claims 1-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over

Yang (5,449,079) in view of Jury (5,941,391). Yang discloses the limitations of the claims including a cover (figs. 1-7) comprising a shell (2) spherical projection with cylindrical cavity (200), openings (202), valve head (23), circular plate with triangular edge (annular extending portion of valve 23), gasket (240), pin (231), bonnet (21) with ribs (upwards extending portion of bonnet 21). Yang excludes a cylindrical stem moveably supported in an opening, a sleeve with flange and an elliptical outline. Jury teaches a cylindrical stem moveably supported in an opening a sleeve with distancing projections/rib thereby creating a vacuum sealed valve construction.

The present invention concerns a container, especially of vacuum receptacle for storage of foodstuffs, in the form of a shell bulged upwards and featuring a vacuum valve.

Claim 1 of the present application requires the hollow (2) with the elliptical outline pointed towards the inside of the container. The references Yang and Jury agree not to exhibit such hollow (2). Therefore a person of ordinary skill in the art would not furnish such hollow (2).

Claim 1 further requires that the hollow (2) has the spherical projection (3) pointed upwards. In contrast to the present application, the references Yang and Jury agree not to have the spherical projection pointed upwards. Applicant respectfully submits that the spherical projection (3) pointed upwards from the hollow (2) patentably distinguishes claim 1 from the references Yang and Jury.

Claim 1 of this application also requires that the projection has a cylindrical cavity (4) with the opening (5) housing the valve head (6). The reference Jury completely fails to teach a cylindrical cavity.

Claim 1 further requires that the valve head (6) has the form of a circular plate (7) attached in the middle to a cylindrical stem and wherein the cylindrical stem is moveably supported in the opening (5). The references Yang and Jury agree not to teach a circular plate (7) and attached cylindrical stem. Therefore, the circular plate (7) with attached cylindrical stem patentably distinguishes claim 1 of this application from the references Yang and Jury.

Claim 2 of this application requires that the valve head (6) has an edge (8) with a triangular outline, cooperating with the gasket (9) of the valve. The

references Yang and Jury fail to teach or suggest the edge with the triangular outline cooperating with the gasket (9).

Claim 2 of this application also requires that the head valve is installed loosely in the opening (5) by means of the sleeve (10) ending with the flange (11) with distancing projections in the form of radial ribs. The sleeve (10) ending with the flange (11) and radial ribs are not seen in the references Yang and Jury. Applicant submits that the sleeve (10) ending with the flange (11) patentably defines claim 2 over the references Yang and Jury.

Claim 3 of this application requires that the other end of the head valve (6) has the pin (12) extending beyond the circular plate (7). The references Yang and Jury fail to teach or to suggest a pin (12) extending beyond the circular plate (7). In view of this, it is respectfully urged that claim 3 is patentable over the references Yang and Jury.

Claim 4 of this application requires that the lower part of the valve is covered with the bonnet (13) with distancing ribs (14). The references Yang and Jury fail to show any distancing ribs (14). It is respectfully urged that claim 4 is patentable over the references Yang and Jury.

Claim 5 of the present application requires a hollow (2) having an elliptical outline pointed downwards and towards an inside of the container and disposed in

a shell. The references Yang and Jury agree in not providing the hollow (2) according to the present application. Therefore, claim 5 requiring the hollow (2) defines the present invention over the references Yang and Jury.

Claim 5 of the present application requires a spherical projection (3), pointed upwards, and disposed in the hollow (2). No such spherical projection is recognized in the references Yang and Jury. Therefore, claim 5 is deemed to be patentable over the references Yang and Jury.

Claim 5 of the present application requires a cylindrical cavity (4) disposed in the spherical projection (3). The reference Jury fails to show such a cylindrical cavity.

Claim 5 also requires an opening (5) in a bottom of the cylindrical cavity. The reference Jury fails to teach the opening (5).

Claim 5 further requires a valve head (6) formed as a circular plate (7) attached on a lower side in a middle to an end of a cylindrical stem and wherein the cylindrical stem is moveably supported in the opening (5). Such valve head (6) formed as a circular plate (7) is neither taught nor suggested in the references Yang and Jury.

Claim 6 of the present application requires a ring shaped gasket (9) disposed on the bottom of the cylindrical cavity. The references Yang and Jury fail to teach or to suggest a ring shaped gasket (9). Applicant respectfully submits that the ring

shaped gasket (9) patentably distinguishes claim 6 over the references Yang and Jury.

Claim 6 further requires an edge (8) forming a circle and disposed on the circular plate (7), having a triangular outline for engaging with the gasket (9), wherein the gasket (9) and the edge (8) disposed on the circular plate (7) form a vacuum valve. The references Yang and Jury clearly fail to teach the edge forming a circle of claim 6 and consequently claim 6 defines patentably the present invention over the references Yang and Jury.

In addition, claim 6 requires that a sleeve (10) is present ending with the flange (11) with distancing projections in the form of radial ribs, wherein the head valve is installed loosely in the opening (5) by means of the sleeve (10). Both references Yang and Jury fail to teach the flange (11) and the radial ribs.

Claim 7 of the present application requires a pin (12) disposed on the circular plate (7) on an upper side of the circular plate (7) disposed opposite to the cylindrical stem and wherein the pin (12) extends beyond the circular plate (7). No circular plate (7) is taught or suggested in the references Yang and Jury.

Claim 7 requires that the cylindrical stem, the circular plate (7), and the pin (12) are disposed coaxially. As the references Yang and Jury fail to teach the cylindrical stem, the circular plate (7) and the pin (12), they further fail to teach

the coaxial disposition of these elements. Claim 7. therefore patentably defines the invention over the references Yang and Jury.

Claim 7.also as amended requires that a diameter of the cylindrical stem is smaller than a diameter of the pin (12) and wherein a length of the cylindrical stem is larger than a length of the sleeve (10). As the references Yang and Jury fail to teach a cylindrical stem and a pin (12) on the sides of the circular plate (7), they also fail to teach the dimensional ratios claimed in claim 7.

Claim 7. further requires that the pin (12) can be pressed sideways for releasing a vacuum in the container by lifting the circular plate (7) on one side from the. ring shaped gasket (9). The references Yang and Jury agree not to employ the circular plate (7) and/or the ring shaped gasket (9) and therefore claim 7 patentably defines the present invention over the references Yang and Jury.

Claim 8 of this application requires that a bonnet (13) is disposed below a bottom end of the cylindrical stem and that distancing ribs (14) are attached to the bonnet (13). The references Yang and Jury fail to teach distancing ribs (14). Applicant respectfully submits that the presence of distancing ribs (14) patentably defines claim 8 over the references Yang and Jury.

Claim 9. recites the following features:

- a) the gasket (9) is ring shaped and flat,
- b) wherein the gasket (9) surrounds the cylindrical stem,
- c) wherein the gasket (9) is seated at the bottom of the cylindrical cavity (4),
- d) wherein the pin (12) is located completely inside the cylindrical cavity (4) while the valve is in a closed position,
- e) wherein an inner diameter of the gasket (9) is smaller than an outer diameter of the circular plate (7),
- f) wherein an outer diameter of the gasket (9) is larger than the outer diameter of the circular plate (7), and
- g) wherein a thickness of the gasket (9) is larger than a thickness of the circular plate.

These seven features of claim 9 are not taught by the references Yang and Jury and therefore define patentably claim 9 over the references Yang and Jury.

Claim 10 of this application requires that the spherical projection (3) includes an inner ring and an outer ring and wherein a free end of the bonnet engages between the inner ring and the outer ring. The references Yang and Jury fail to teach an inner ring and an outer ring. Therefore, claim 10 defines patentably the present invention over the references Yang and Jury.

Claim 11 requires that the cylindrical stem and the circular plate (7) are disposed axially aligned with the cylindrical cavity (4) and wherein the edge (8) of the circular plate (7) is axially aligned with the gasket (9). The references Yang and Jury fail to teach a circular plate (7) or an edge (8) of the circular plate (7). Therefore claim 11 defines the invention patentably over the references Yang and Jury.

Claim 12 of this application requires a hollow (2) pointed downwards and towards an inside of the container and disposed in a shell. The references Yang and Jury fail to teach a hollow (2) disposed in a shell. It is respectfully submitted that the hollow (2) pointed downward patently distinguishes the present invention over the references Yang and Jury.

Claim 12 also requires a spherical projection (3), pointed upwards, and disposed in the hollow. In contrast, the references Yang and Jury do not teach a spherical projection (3), pointed upwards and disposed in a hollow. It is submitted that claim 12 patentably distinguishes over the references Yang and Jury.

Claim 12 in addition requires a cylindrical cavity (4) disposed in the spherical projection (3) and open on an upper side. No cylindrical cavity (4) disposed in a spherical projection (3) is recognized in the references Yang and Jury. It is



respectfully submitted that the invention is patently defined by a cylindrical cavity (4) disposed in a spherical projection.

An opening (5) in a bottom of the cylindrical cavity is not taught by the reference Jury.

Claim 12 also requires a valve head (6) formed as a circular plate (7) attached on a lower side in a middle to an end of a cylindrical stem and wherein the cylindrical stem is moveably supported in the opening (5). The references Yang and Jury agree in not teaching a circular plate (7) attached to an end of a cylindrical stem. It is respectfully submitted that the circular plate (7) attached to the cylindrical stem patentably distinguishes claim 12 over the references Yang and Jury.

Claim 12 further requires that a ring shaped gasket (9) is disposed on the bottom of the cylindrical cavity. The references Yang and Jury fail to teach a ring shaped gasket (9) disposed on a bottom of a cylindrical cavity. Therefore, the invention is deemed to be patentable in claim 12 based on the ring shaped gasket (9) disposed on a bottom of a cylindrical cavity.

Claim 12 additionally requires that an edge (8) is disposed on the circular plate (7) and has a triangular cross-section for engaging with the ring shaped gasket (9), wherein the gasket (9) and the edge (8) disposed on the circular plate (7) form a vacuum valve. The references Yang and Jury fail to teach an edge disposed on a

circular plate (7) engaging a ring shaped gasket (9) forms a vacuum valve.

Applicant urges that the edge (8) disposed on a circular plate (7) patentably distinguishes over the references Yang and Jury.

Claim 13 requires a sleeve (10) ending with the flange (11) with distancing projections in the form of radial ribs, wherein the head valve is installed loosely in the opening (5) by means of the sleeve (10). The references Yang and Jury fail to teach a sleeve (10) ending with the flange (11) with distancing projections in the form of radial ribs. It is respectfully submitted that claim 13 is deemed patentable over the references Yang and Jury in view of the flange (11) with distancing projections in the form of radial ribs.

Claim 14 requires a pin (12) disposed on the circular plate (7) on an upper side of the circular plate (7) disposed opposite to the cylindrical stem and wherein the pin (12) extends beyond the circular plate (7). The references Yang and Jury fail to teach a circular plate (7) having disposed a pin (12) and on an opposite side having a cylindrical stem. It is respectfully urged that the presence of a circular plate (7) with a pin (12) and with a cylindrical stem patentably distinguishes claim 14 from the references Yang and Jury.

Claim 15 requires a bonnet (13) disposed below a bottom end of the cylindrical stem, and distancing ribs (14) attached to the bonnet (13). The

references Yang and Jury fail to teach distancing ribs attached to a bonnet.

Therefore, claim 15 is deemed to be patentable over the references Yang and Jury in view of the distancing ribs (14) attached to the bonnet (13).

Claim 16. requires that the gasket (9) is ring shaped, that the gasket (9) surrounds the cylindrical stem, that the gasket (9) is seated at the bottom of the cylindrical cavity (4), and that the pin (12) is located completely inside the cylindrical cavity (4) while the valve is in a closed position. The references Yang and Jury fail to teach the properties of the gasket (9). Therefore claim 16 is believed to be patentable over the references Yang and Jury based on the properties of the gasket (9) set forth in claim 16.

Claim 17. requires that the spherical projection (3) includes an inner ring and an outer ring and that a free end of the bonnet engages between the inner ring and the outer ring. The references Yang and Jury fail to teach or suggest that a free end of a bonnet (13) engages between an inner ring and an outer ring. Therefore, it is believed that claim 17 is patentable over the references Yang and Jury in view of the free end of a bonnet (13) engaging between an inner ring and an outer ring.

Claim 18 requires that the cylindrical stem and the circular plate (7) are disposed axially aligned with the cylindrical cavity (4) while a vacuum is present and wherein the edge (8) of the circular plate (7) is axially aligned with

the gasket (9). The references Yang and Jury fail to teach axial alignment of a circular plate (7) with a cylindrical cavity (4). It is respectfully submitted that the axial alignment of a circular plate (7) and the cylindrical cavity (4) when under vacuum as required by claim 18 patentably distinguishes over the references Yang and Jury. Another aspect of distinguishing claim 18 from the references Yang and Jury is the axial alignment of the edge (8) and the ring shaped gasket (9).

Claim 19. requires that the hollow (2) has an elliptical outline. The references Yang and Jury fail to teach a presence of a hollow (2) as well as its elliptical shape. It is respectfully submitted that the hollow (2) with an elliptical outline patentably distinguishes over the references Yang and Jury.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Yang with the aforementioned structural features in order to provide an alternate vacuum sealed valve construction.

As has been set forth above, the elements taught by Yang do not match the elements recited by applicant's claims. The structure of the reference Yang is such different from what is taught in the reference Jury that a person of ordinary skill in the art would not know what to do. There are many instances where the references Yang and Jury agree in not furnishing the structure of the present application. There is nothing within the four corners of the references Yang and Jury directing to do what the Office Action proposes. The Office Action admits that Yang does not teach "a sleeve with flange and an elliptical outline", but the Office Action does not say where the reference Jury

would teach these items. To provide an alternate vacuum sealed valve construction is no serious motivation for a person of ordinary skill in the art.

Regarding the elliptical outline, Yang excludes what would have been obvious to one of ordinary skill in the art at the time of invention, having an elliptical outline pointed towards the inside of the container in order to facilitate design choice and add an aesthetic element to the container cover.

Applicant urges that the elliptical outline is essentially a structural element. There is nothing obvious in furnishing an elliptic outline. The elliptic outline bridges between the diameter of the container and the diameter of the cylindrical projection.

Moreover, a change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Applicant respectfully disagrees. The elliptical outline of the present invention is original and does not represent a sole change in form or shape of a prior construction. The elliptical shape furnishes additional strength to the cover.

***The Office Action refers to Response to Arguments***

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Applicant is now furnishing a response to the new grounds of rejection.

***The Office Action refers to Conclusion***

4. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.


The present response develops a number of arguments as to why the claims submitted patentably define the invention over the art of record. The various claim amendments are believed to be supported by Fig. 3.

Reconsideration of all outstanding rejections is respectfully requested.

All claims 1 to 19 presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,

Slawomir Bursztein

By:   
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Horst M. Kasper, his attorney,  
13 Forest Drive, Warren, N.J. 07059  
Tel.:(908)526-1717 Fax:(908)526-6977  
Reg. No. 28,559; Docket No.: GRS201

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